

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.25399 of 2005

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Dated:29.11.2005

Between:

M.Prabhakar, s/o M.Ranga Rajesham,
R/o H.No.1-8-262/3/3, Scindi Colony, S.P.Road, Secunderabad.

..... PETITIONER

AND

The District Collector, Hyderabad, and others.

.....RESPONDENTS

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ORDER:

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The petitioner statedly occupied a portion of the land in T.S.No.3, Bholakpur Village, Block No.101-D at Sindhi Colony, S.P.Road, Secunderabad, and constructed a small family portion in 1988 with zinc sheets and residing therein. It is alleged that the Municipal Corporation of Hyderabad is also collecting unauthorized occupation fees. On 24.11.2005, when the second respondent and his subordinates orally threatened to demolish the petitioner's construction, apprehending coercive action, the present writ petition is filed.

The learned Counsel for the petitioner submits that even if the petitioner is in occupation of the portion of the municipal property, unless a notice is issued, the Corporation cannot take any coercive action. **Per contra**, the learned Standing Counsel for the Municipal Corporation of Hyderabad after obtaining instructions submits that the petitioner has occupied road margin, and therefore, no notice is required under Section 405 of the Hyderabad Municipal Corporations Act, 1955.

After hearing the learned Counsel and perusing the material placed before this

Court, the petitioner cannot be said to have enforceable right to seek a writ of Mandamus. However, following the judgment of the Supreme Court in **Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan**, a direction is given to respondent Nos.2 and 3 to grant seven days time to the petitioner for vacating the portion, and if the petitioner fails to remove the construction on the road margin, it shall be removed by respondent Nos.2 and 3.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

(V.V.S.RAO, J)

29.11.2005

vs